

REFERENCE TITLE: national guard mobilization; border; appropriation

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2766

Introduced by

Representatives Nichols, Barnes, Boone, Burges, Farnsworth, Murphy,
Pearce, Reagan, Yarbrough: Adams, Alvarez, Anderson, Barto, Biggs, Burns
J, Cajero Bedford, Clark, Crandall, Crump, Driggs, Groe, Kavanagh,
Konopnicki, Mason, McComish, McGuire, McLain, Nelson, Rios P, Robson,
Stump, Tobin, Weiers J, Weiers JP

AN ACT

AMENDING SECTION 26-172, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION;
RELATING TO THE NATIONAL GUARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 26-172, Arizona Revised Statutes, is amended to
3 read:

4 26-172. Emergency mobilization: requests by municipalities for
5 aid of national guard: mobilization into United
6 States service

7 A. When the governor proclaims an emergency, or deems it necessary to
8 protect lives or property, the governor may mobilize all or any part of the
9 national guard or the unorganized militia into service of the state. The
10 order directing the national guard or the unorganized militia, or any part
11 thereof, to report for active duty shall state the purpose for which it is
12 mobilized and the objectives to be accomplished.

13 B. IF THE GOVERNOR DECLARES THAT A STATE OF EMERGENCY EXISTS FOR THE
14 PROTECTION OF THE LIVES AND PROPERTY OF CITIZENS OF THIS STATE RESULTING FROM
15 AN INCREASE IN UNAUTHORIZED BORDER CROSSINGS AND THE RELATED INCREASE IN
16 DEATHS, CRIME AND PROPERTY DAMAGE, THE GOVERNOR MAY MOBILIZE THE NATIONAL
17 GUARD TO ADDRESS THE EMERGENCY. ACTING UNDER THE AUTHORITY OF THE GOVERNOR,
18 THE NATIONAL GUARD MAY ADDRESS THE EMERGENCY BY DEFENDING THE SOUTHERN
19 ARIZONA BORDER BY ACTING IN A PRIMARY ROLE TO STOP UNAUTHORIZED BORDER
20 CROSSINGS AND DETAIN ANY PERSONS SUSPECTED OF ILLEGAL ACTIVITY INCLUDING
21 UNAUTHORIZED ENTRY INTO THE UNITED STATES. THE NATIONAL GUARD MAY TRANSPORT
22 DETAINED INDIVIDUALS TO THE APPROPRIATE LAW ENFORCEMENT AGENCY. THE NATIONAL
23 GUARD MAY TAKE APPROPRIATE ACTIONS TO DEFEND ITS POSITION ALONG THE BORDER
24 AND DOES NOT NEED TO RETREAT.

25 ~~B.~~ C. The adjutant general shall issue orders for mobilization,
26 appoint troop commanders and act as chief of staff to the governor. The
27 adjutant general ~~shall~~, with consent of the governor and in the name of the
28 adjutant general, ~~SHALL~~ issue orders designating local commanders, giving
29 tactical and administrative instructions, and defining the objectives of each
30 mobilized unit.

31 ~~C.~~ D. The civil authorities of a county or municipality requiring aid
32 of the national guard to quell any riot, insurrection or other civil
33 disturbance shall submit to the governor a written request for aid, setting
34 forth the particular object to be accomplished and the area affected. Upon
35 receipt of the request the governor may by proclamation mobilize all or any
36 part of the national guard or the unorganized militia, and the governor shall
37 designate the adjutant general or an officer of the national guard to take
38 command of the troops mobilized and to designate the troops to be used.

39 ~~D.~~ E. To request assistance of the national guard, or the unorganized
40 militia, or any part thereof in a search or rescue operation involving the
41 life or health of any person, the sheriff or other officer of a political
42 subdivision who is conducting the search or rescue operation shall by the
43 most rapid and suitable means of communication available convey the need to
44 the state director of emergency management for transmittal to the governor.
45 If the governor grants the request the sheriff or other officer ~~shall~~, within

1 two days, SHALL transmit a written confirmation of the request to the
2 governor.

3 ~~E.~~ F. If the president of the United States directs mobilization of
4 the national guard into the armed forces of the United States, the adjutant
5 general shall effect the mobilization speedily and in the manner prescribed.
6 Upon mobilization into the armed forces of the United States, the national
7 guard shall pass to federal control and shall not be subject to military laws
8 of the state until the time it reverts to control of the state.

9 Sec. 2. Appropriation; national guard mobilization; exemption

10 A. The sum of \$10,000,000 is appropriated from the state general fund
11 in fiscal year 2007-2008 to the department of emergency and military affairs
12 for payment of expenses incurred by the national guard pursuant to any
13 mobilization due to a declaration by the Governor relating to the protection
14 of Arizona lives and property resulting from an increase in unauthorized
15 border crossings and the related increase in deaths, crime and property
16 damage, including any declaration issued on or after August 15, 2005 when the
17 national guard acts in a primary role pursuant to section 26-172, subsection
18 B, Arizona Revised Statutes.

19 B. The appropriation made in subsection A of this section is exempt
20 from the provisions of section 35-190, Arizona Revised Statutes, relating to
21 lapsing of appropriations.